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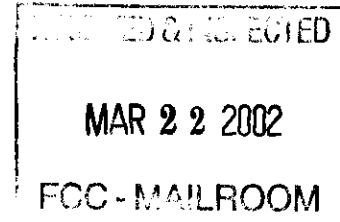
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March 15, 2002

DOCKET FILE COPY ORIGINAL

William Caton
Acting Secretary
Federal Communications Commission
236 Massachusetts Ave., N.E.
Suite 110
Washington, D.C. 20002



Via Federal Express

Re: MM Docket No. 02-13
RM - 10357
Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
Bunnell and Palm Coast, FL

Dear Mr. Caton:

Transmitted herewith on behalf of Charles E. Harder is an original and four (4) copies of a Counterproposal in MM Docket No. 02-13.

Should there be any questions concerning this filing, please communicate with the undersigned.

Very truly yours,

A handwritten signature in cursive script that reads "William D. Silva".

William D. Silva
Counsel for Charles E. Harder

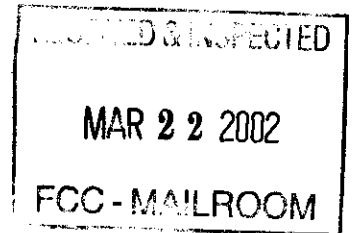
Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b))	
Table of Allotments)	
FM Broadcast Stations)	MM Docket No. 02-13
(Bunnell and Palm coast, FL))	RM-10357
)	



To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

COUNTERPROPOSAL

Charles E. Harder ("Harder"), by and through counsel and pursuant to Section 1.420(d) of the Commission's Rules, 47 C.F.R. § 1.420(d), hereby files a Counterproposal to the Notice of Proposed Rule Making, DA 02-206 released January 25, 2002, ("NPRM"). The NPRM proposed to amend the FM Table of Allotments to allot Channel 254A to Bunnell, Florida, as its first local service. This Counterproposal seeks instead to allot Channel 254A to the larger community of Palm Coast, Florida, as its first local service as shown in the following table:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Palm Coast, FL	-----	254A

In support, the following is shown:

1. As demonstrated in the attached Engineering Statement, Channel 254A can be allotted to Palm Coast, Florida, at coordinates 29-29-38 NL and 81-09-45 WL in accordance with the Commission's distance separation requirements and city grade coverage requirements.
2. Palm Coast, Florida, was officially incorporated on December 31, 1999. Its population according to the 2000 U. S. Bureau of Census was 32,732 persons. The five-member

City Council is elected at large and serves staggered four year terms. One member is elected Mayor. The city hired its first city manager on April 17, 2000. The city of Palm Coast provides a wide range of services including development services, fire services, street construction and maintenance, parks and recreation activities. The city currently has plans in place to build a new city hall, a town center, new fire stations, and additional lands for parks. The city covers an area of approximately fifty (50) square miles and is located in the eastern portion of Flagler County. Allotting Channel 254A would constitute the community's first local service.^{1 2}

Consequently, allotting Channel 254A to Palm Coast would represent the first local service to Palm Coast and trigger priority (3) of the Commission's allotment priorities.³

3. Pursuant to the Commission's allotment priorities, both Bunnell and Palm Coast are entitled to credit under priority 3 for first local service. However, Palm Coast, with a 2000 Census population of 32,732, is substantially larger than Bunnell, with a 2000 Census population of only 2,122 persons. In such situations, the Commission has found that the public interest would be served by the provision of a first local aural service to the larger community.

¹ An application for a new non-commercial FM station has been filed for Palm Coast (File No. BPED-19900104MP). However this application has not even been accepted for filing. Since the potential for a new noncommercial FM station at Palm Coast is purely speculative, the application is not considered a local transmission service pursuant to the Commission's FM allotment policies. *Report and Order, Linden, White Oak, Lufkin, Texas et al.*, MM Docket No. 00-228, RM-9991, released May 18, 2001, n. 4.

² FM translators are secondary services and, as such, are not considered to be a local service for Palm Coast under the FM allotment priorities. *Report and Order, Brightwood, Madras, Oregon et al.*, MM Docket No. 00-87, RM-9870 and 9961, para. 10.

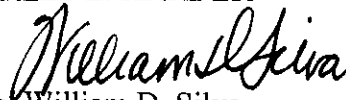
³ The FM priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

See Report and Order, Brightwood, Madras, Oregon et al., supra at para. 11; and Memorandum Opinion and Order in MM Docket No. 93-13 (Blanchard, Louisiana, and Stephens, Arkansas), 10 FCC Rcd 9828 (FCC, 1995); Report and Order in MM Docket No. 95-88 (Rose Hill, Trenton, Aurora and Ocracoke, North Carolina), 11 FCC Rcd 21223 (1996), recon. denied, 15 FCC Rcd 10739 (2000) app. for review pending.

CONCLUSION

5. Therefore, Harder respectfully requests the Commission to allot Channel 254A to Palm Coast, Florida, as its first local service. It is Harder's present intention to apply for the channel if is allotted and, if authorized, to build a station promptly.

Respectfully submitted,
CHARLES E. HARDER


By: /s/ William D. Silva
William D. Silva
Law Offices of William D. Silva
5335 Wisconsin Ave., N.W.
Suite 400
Washington, D.C. 20554
(202)362-1711

His Counsel

March 15, 2002

**ENGINEERING STATEMENT
PREPARED IN SUPPORT OF
COUNTERPROPOSAL TO
PETITION FOR RULEMAKING
MM DOCKET NO. 02-13 RM-10357
TO AMEND THE TABLE OF
ALLOTMENTS TO ADD CHANNEL 254A
AT PALM COAST CITY, FLORIDA**

MARCH 14, 2002

**ENGINEERING STATEMENT
PREPARED IN SUPPORT OF
COUNTERPROPOSAL TO
PETITION FOR RULEMAKING
MM DOCKET NO. 02-13 RM-10357
TO AMEND THE TABLE OF
ALLOTMENTS TO ADD CHANNEL 254A
AT PALM COAST CITY, FLORIDA
MARCH 14, 2002**

SUMMARY

The following engineering statement has been prepared on behalf of **Charles E. Harder** ("**Harder**") in support of its counterproposal to add Channel 254A (98.7 mHz) to the FM Table of Allotments, *Section 73.202* of the Commission's Rules and Regulations, at Palm Coast City, Florida. The proposal complies with *Section 73.207* of the Rules for domestic facilities and with *Section 73.315* concerning 70 dBu service to the community of license.

This statement is complete with the following:

- | | | |
|-----------|----|--|
| Exhibits: | I. | Allocation study for Channel 254A, Palm Coast City, Florida. |
| Figures: | 1. | Palm Coast City, Florida 70 dBu and 60 dBu predicted contours from the proposed reference coordinates. |

REFERENCE COORDINATES/TECHNICAL CHARACTERISTICS

The reference coordinates for the proposed Channel 254A allocation at Palm Coast City, Florida are:

North Latitude:	29° 29' 38"
West Longitude:	81° 09' 45"

The 6 radial AAT for the reference coordinates is 6.1 meters (The 45° and 90° radials are omitted from the AAT as the entire 2 to 10 mile path is over water, 73.313(d)(2)). The radiation center used for the contour study is, therefore, 106.1 meters AMSL, 100 meters HAAT.

COMMUNITY CHARACTERISTICS

Palm Coast City is located in Flagler County, Florida. 2000 U.S. Census data for the city and county follows:

	<u>Palm Coast City</u>	<u>Flagler County</u>
2000 Census	32,732 persons	49,832 persons

There are no full service FM or AM stations licensed to Palm Coast City. One NCE FM application is pending for Palm Coast City, BPED-19990104MP, FCC ID No. 92508. This application is mutually exclusive with other NCE FM applications for Favoretta and Flagler Beach, Florida.

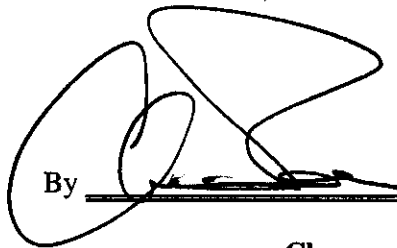
ALLOCATION CONSIDERATIONS

All eighty commercial FM channels were searched in an effort to find a channel which could be allocated to Palm Coast City while meeting domestic minimum distance separation standards. No other channel was found which would meet this criteria. However, Channel 254A does meet all of the *Section 73.207* minimum distance separation standards to domestic stations.

CONCLUSION

The Channel 254A allotment counterproposal for Palm Coast City, Florida is believed to meet all applicable Commission technical standards.

The foregoing was prepared on behalf of **Charles E. Harder** by Clarence M. Beverage of *Communications Technologies, Inc.*, Marlton, New Jersey, whose qualifications are a matter of record with the Federal Communications Commission. The statements herein are true and correct of his own knowledge, except such statements made on information and belief, and as to these statements he believes them to be true and correct.

By 

Clarence M. Beverage
for Communications Technologies, Inc.
Marlton, New Jersey

SUBSCRIBED AND SWORN TO before me,

this 14th day of March, 2002,

Esther G. Sperbeck, NOTARY PUBLIC

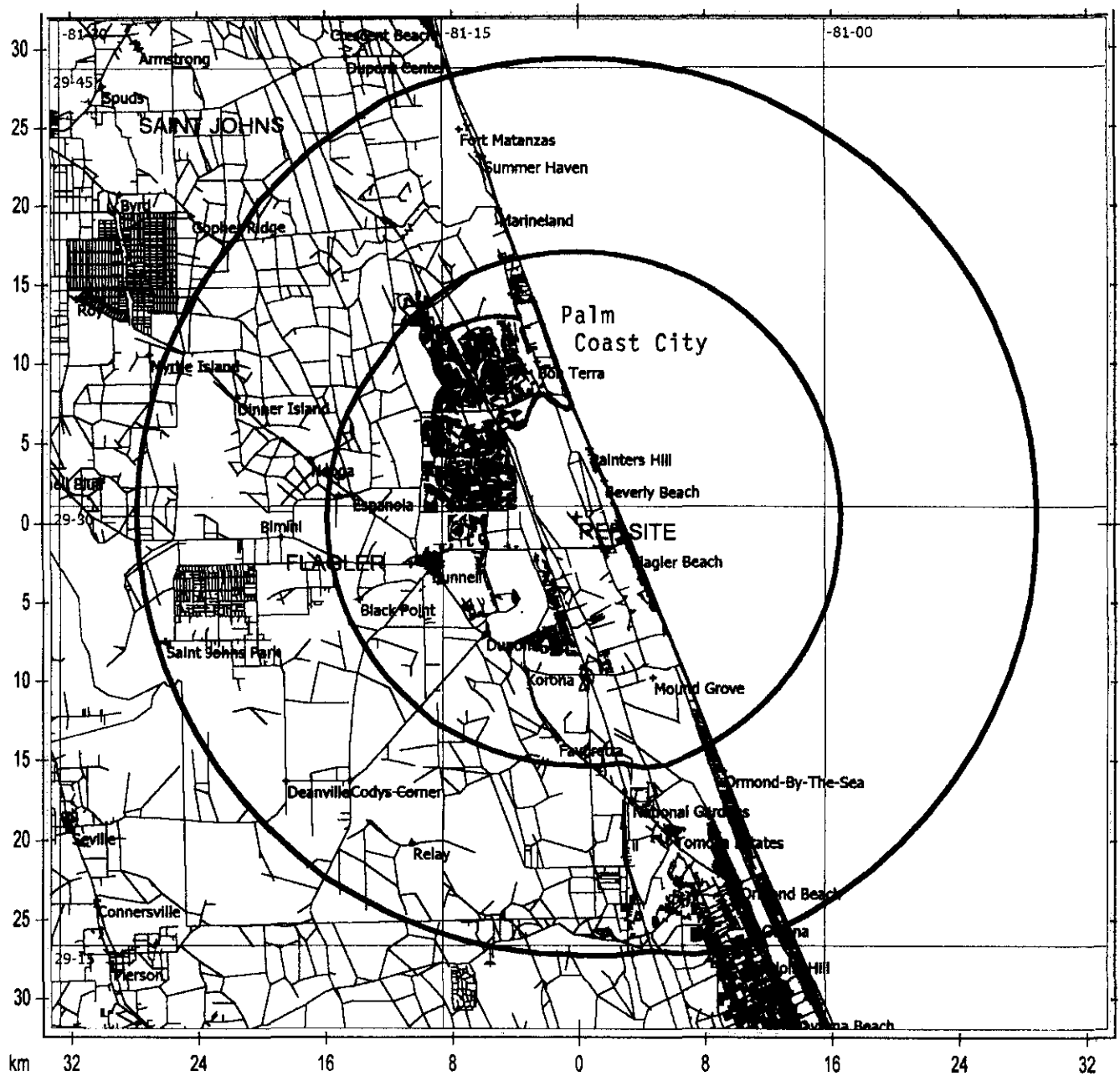
ESTHER G. SPERBECK
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 15, 2002

EXHIBIT 1**FM ALLOCATION STUDY****CH 254A COUNTERPROPOSAL IN MM DOCKET NO. 02-13****PALM COAST CITY, FLORIDA****MARCH 2002**

Search of channel 254 (98.7 MHz Class A) at 29-29-38.0 N, 81-09-45.0 W.

CALL	CITY	ST CHN CL	DIST	S	BRNG	CLEARANCE
WQIK-FM	JACKSONVILLE	FL 256 C0	95.70	86	335.9	9.70
WQIK-FM	JACKSONVILLE	FL 256 C	105.82	95	331.2	10.82
WQIK-FM	JACKSONVILLE	FL 256 C	105.82	95	331.2	10.82
WQIK-FM	JACKSONVILLE	FL 256 C	95.01	95	336.1	0.01
WQIK-FM	JACKSONVILLE	FL 256 C	95.01	95	336.1	0.01
WNUE-FM	TITUSVILLE	FL 251 C1	77.28	75	157.8	2.28
WMMO	ORLANDO	FL 255 C2	106.05	106	196.0	0.05
WMMO	ORLANDO	FL 255 C2	107.69	106	193.7	1.69
WKTK	CRYSTAL RIVER	FL 253 C1	138.91	133	259.5	5.91
WKTK	CRYSTAL RIVER	FL 253 C1	138.87	133	259.5	5.87
WEAZ	HOLLY HILL	FL 201 A	13.41	10	187.4	3.41
NEW	PORT ORANGE	FL 256 LP100	43.62	29	161.2	14.62
NEW	ORMOND BEACH	FL 255 LP100	25.27	56	152.3	-30.73
NEW	DAYTONA BEACH SHORES	FL 256 LP100	39.36	29	153.7	10.36
NEW	DAYTONA BEACH	FL 256 LP100	34.78	29	159.0	5.78
NEW	DAYTONA BEACH	FL 256 LP100	34.83	29	161.7	5.83
	BUNNELL	FL 254 A	0.00	115	90.0	-115.00

CHARLES E. HARDER PROPOSED CH 254A PALM COAST CITY, FLORIDA



Communications Technologies, Inc. Marlton, New Jersey

County Borders
 Highways
 Streets
 Lat/Lon Grid

Map Scale: 1:400000 1 cm = 4.00 km V/H Size: 63.70 x 66.57 km

FIGURE 1

CERTIFICATE OF SERVICE

I, William D. Silva, hereby certify, that copies of the foregoing "Counterproposal" were mailed to the following persons by first class mail, postage prepaid at the addresses indicated below on this 15 th day of March 2002:

James P. Riley, Esquire
Anne Goodwin Crump, Esquire
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street
Eleventh Floor
Arlington, VA 22209

A handwritten signature in black ink, appearing to read "William D. Silva". The signature is fluid and cursive, with the first name "William" being larger and more prominent than the last name "Silva".

/s/ William D. Silva
William D. Silva